

§ 19.100

Comptroller or a reviewing court, operate as a stay of any order issued by the Comptroller. The Comptroller may, in his or her discretion, and on such terms as he or she finds just, stay the effectiveness of all or any part of an order pending a final decision on a petition for review of that order.

Subpart B—Procedural Rules for OCC Adjudications

§ 19.100 Filing documents.

All materials required to be filed with or referred to the Comptroller or the administrative law judge in any proceeding under this part must be filed with the Hearing Clerk, Office of the Comptroller of the Currency, 400 7th Street, SW., Washington, DC 20219. Filings to be made with the Hearing Clerk include the notice and answer; motions and responses to motions; briefs; the record filed by the administrative law judge after the issuance of a recommended decision; the recommended decision filed by the administrative law judge following a motion for summary disposition; referrals by the administrative law judge of motions for interlocutory review; exceptions and requests for oral argument; and any other papers required to be filed with the Comptroller or the administrative law judge under this part.

[68 FR 48265, Aug. 13, 2002, as amended at 73 FR 22243, Apr. 24, 2008; 79 FR 15641, Mar. 21, 2014]

§ 19.101 Delegation to OFIA.

Unless otherwise ordered by the Comptroller, administrative adjudications subject to subpart A of this part shall be conducted by an administrative law judge assigned to OFIA.

Subpart C—Removals, Suspensions, and Prohibitions When a Crime Is Charged or a Conviction Is Obtained

§ 19.110 Scope.

This subpart applies to informal hearings afforded to any institution-affiliated party who has been suspended or removed from office or prohibited from further participation in the affairs of any depository institution pur-

12 CFR Ch. I (1–15 Edition)

suant to 12 U.S.C. 1818(g) by a notice or order issued by the Comptroller.

[56 FR 38028, Aug. 9, 1991, as amended at 73 FR 22243, Apr. 24, 2008]

§ 19.111 Suspension, removal, or prohibition.

The Comptroller may serve a notice of suspension or order of removal or prohibition pursuant to 12 U.S.C. 1818(g) on an institution-affiliated party. A copy of such notice or order will be served on any depository institution that the subject of the notice or order is affiliated with at the time the notice or order is issued, whereupon the institution-affiliated party involved must immediately cease service to, or participation in the affairs of, that depository institution and, if so determined by the OCC, any other depository institution. The notice or order will indicate the basis for suspension, removal or prohibition and will inform the institution-affiliated party of the right to request in writing, to be received by the OCC within 30 days from the date that the institution-affiliated party was served with such notice or order, an opportunity to show at an informal hearing that continued service to or participation in the conduct of the affairs of any depository institution has not posed, does not pose, or is not likely to pose a threat to the interests of the depositors of, or has not threatened, does not threaten, or is not likely to threaten to impair public confidence in, any relevant depository institution. The written request must be sent by certified mail to, or served personally with a signed receipt on, the District Deputy Comptroller in the OCC district in which the bank in question is located; if the bank is supervised by Large Bank Supervision, to the Senior Deputy Comptroller for Large Bank Supervision for the Office of the Comptroller of the Currency; if the bank is supervised by Mid-Size/Community Bank Supervision, to the Senior Deputy Comptroller for Mid-Size/Community Bank Supervision for the Office of the Comptroller of the Currency; or if the institution-affiliated party is no longer affiliated with a

Comptroller of the Currency, Treasury

§ 19.112

particular national bank, to the Deputy Comptroller for Special Supervision, Washington, DC 20219. The request must state specifically the relief desired and the grounds on which that relief is based. For purposes of this section, the term *depository institution* means any depository institution of which the petitioner is or was an institution-affiliated party at the time at which the notice or order was issued by the Comptroller.

[73 FR 22243, Apr. 24, 2008]

§ 19.112 Informal hearing.

(a) *Issuance of hearing order.* After receipt of a request for hearing, the District Deputy Comptroller, the Senior Deputy Comptroller for Large Bank Supervision, the Senior Deputy Comptroller for Mid-Size/Community Bank Supervision, or the Deputy Comptroller for Special Supervision, as appropriate, must notify the petitioner requesting the hearing, the OCC's Enforcement and Compliance Division, and the appropriate OCC District Counsel of the date, time, and place fixed for the hearing. The hearing must be scheduled to be held not later than 30 days from the date when a request for hearing is received unless the time is extended in response to a written request of the petitioner. The District Deputy Comptroller, the Senior Deputy Comptroller for Large Bank Supervision, the Senior Deputy Comptroller for Mid-Size/Community Bank Supervision, or the Deputy Comptroller for Special Supervision, as appropriate, may extend the hearing date only for a specific period of time and must take appropriate action to ensure that the hearing is not unduly delayed.

(b) *Appointment of presiding officer.* the District Deputy Comptroller, the Senior Deputy Comptroller for Large Bank Supervision, the Senior Deputy Comptroller for Mid-Size/Community Bank Supervision, or the Deputy Comptroller for Special Supervision, as appropriate, must appoint one or more OCC employees as the presiding officer to conduct the hearing. The presiding officer(s) may not have been involved in the proceeding, a factually related proceeding, or the underlying enforcement action in a prosecutorial or investigative role.

(c) *Waiver of oral hearing*—(1) *Petitioner.* When the petitioner requests a hearing, the petitioner may elect to have the matter determined by the presiding officer solely on the basis of written submissions by serving on the District Deputy Comptroller, the Senior Deputy Comptroller for Large Bank Supervision, the Senior Deputy Comptroller for Mid-Size/Community Bank Supervision, or the Deputy Comptroller for Special Supervision, as appropriate, and all parties, a signed document waiving the statutory right to appear and make oral argument. The petitioner must present the written submissions to the presiding officer, and serve the other parties, not later than ten days prior to the date fixed for the hearing, or within such shorter time period as the presiding officer may permit.

(2) *OCC.* The OCC may respond to the petitioner's submissions by presenting the presiding officer with a written response, and by serving the other parties, not later than the date fixed for the hearing, or within such other time period as the presiding officer may require.

(d) *Hearing procedures*—(1) *Conduct of hearing.* Hearings under this subpart are not subject to the provisions of subpart A of this part or the adjudicative provisions of the Administrative Procedure Act (5 U.S.C. 554–557).

(2) *Powers of the presiding officer.* The presiding officer shall determine all procedural issues that are governed by this subpart. The presiding officer may also permit or limit the number of witnesses and impose time limitations as he or she deems reasonable. The informal hearing will not be governed by the formal rules of evidence. All oral presentations, when permitted, and documents deemed by the presiding officer to be relevant and material to the proceeding and not unduly repetitious will be considered. The presiding officer may ask questions of any person participating in the hearing and may make any rulings reasonably necessary to facilitate the effective and efficient operation of the hearing.

(3) *Presentation.* (i) The OCC may appear and the petitioner may appear personally or through counsel at the hearing to present relevant written